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OTERS' GUIDE

EXPLAINING PROPOSED AMENDMENTS
TO THE
CONSTITUTION
OF THE
STATE OF NEW HAMPSHIRE

November 2, 1976

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"Every voter who wishes to vote "Yes" will make a cross in the square near the word "Yes"; if he wishes to vote "No" he will make a cross in the square near the word "No". If he makes no cross in either square, his ballot will not be counted as to such question."

(Question Relating to Constitutional Amendment
Proposed by the 1975 General Court)

1. Are you in favor of amending the Constitution to remove the requirements that pensions be granted for not more than one year at a time?

Yes
No

(Questions proposed by the 1974 Constitutional Convention)

2. Are you in favor of amending the Constitution to provide that the public's right of access to governmental proceedings and records shall not be unreasonably restricted?

Yes
No

3. Are you in favor of amending the Constitution to provide for annual sessions of the legislature and to allow mileage payments for actual attendance for a maximum of ninety legislative days per biennium?

Yes
No

4. Are you in favor of amending the Constitution to provide that the minimum amount in controversy for the right to a jury trial in a civil case be increased from over five hundred dollars to over three thousand dollars?

Yes
No

5. Are you in favor of amending the Constitution to provide that a town, ward, or unincorporated place may be divided into two or more representative districts if requested by a referendum in such town, ward, or place?

Yes
No

6. Are you in favor of amending the Constitution to provide that should a senator cease to be an inhabitant of the district for which he was chosen, he shall be disqualified to hold such position and a vacancy shall be declared?

Yes
No

7. Are you in favor of amending the Constitution by removing certain obsolete words and phrases as follows:

(a) Striking out the provisions of Articles 48, 53, 54 and 55 of Part 2 regarding the organization of the state militia and the appointment and removal of its officers which do not conform to actual practice or federal laws governing the National Guard;

Yes
No

(b) Striking out in Article 28 of Part 2 the restriction against voting by paupers and the prohibition against voting by persons excused from paying taxes at their own request to conform to a previous amendment to Article 11 of Part 1 of the Constitution; and further amending the Constitution by:

(c) Striking out in Article 46 of Part 2 the reference to the appointment of coroners by the governor and council?

8. Are you in favor of amending the Constitution to make the following changes relating to elections:

(a) to reduce the minimum age of voters to eighteen;

Yes
No

(b) to make domicile rather than being an inhabitant a prerequisite for the voting privilege;

(c) to repeal certain provisions relative to voting in unincorporated places;

(d) to specify that the receipt and counting of ballots and notification of winners in biennial election contests will be handled by the secretary of state; and

(e) to provide the right to vote by absentee ballot in biennial or state elections, or in the primary elections therefor, or in city elections or town elections by official ballot?

TO THE VOTERS OF NEW HAMPSHIRE:

At the November 2, 1976, election you will receive a separate non-partisan ballot with eight questions for your consideration. Each question refers to a proposed amendment to the New Hampshire Constitution. If *two-thirds* of the people who vote on any given question vote YES then the Constitution will be amended as indicated in the question.

The first question has been proposed by the 1975 New Hampshire Legislature, which has authority to consider and recommend changes in your Constitution. The next seven questions have been proposed by the 1974 New Hampshire Constitutional Convention, a body of delegates elected every ten years to consider and recommend changes in the New Hampshire Constitution.

This Voters' Guide was prepared by a committee of the Constitutional Convention, as authorized by the Convention, and by the Office of Legislative Services, with the approval and assistance of the legislative leadership.

The Guide includes each question exactly as it will appear on the ballot, and explains the effect of each proposed amendment.

As you will see, the issues are important and deserve your study and your vote.

**YOU MAY TAKE THIS
GUIDE WITH YOU
TO THE POLLS.**

PLEASE REMEMBER

- that these questions are non-partisan — they are not related to any candidate or party
- that two-thirds of those who vote on each question must vote **YES** in order to amend the New Hampshire Constitution
- that the questions are on the ballot because your elected representatives thought the issues were important enough to require your consideration
- that each question merits your thought and your vote

THIRTY-THREE
NO. 111401
2010-01-01

QUESTION NO. 1

PENSIONS

QUESTION:

1. Are you in favor of amending the Constitution to remove the requirements that pensions be granted for not more than one year at a time?

Yes
 No

AT THE PRESENT TIME:

The Constitution prohibits the Legislature from granting pensions for more than one year at a time. This means that any amount appropriated for pensions by the Legislature every two years must be paid within a twelve month period. As a result, retired public employees do not receive pension payments during half of each two-year period, causing a difficult budgeting problem for them.

The 1877 amendments to the Constitution provided for biennial sessions of the Legislature rather than annual sessions. The limitation on payment of pensions was related to the annual sessions of the Legislature and was part of the original 1783 Constitution, but when the Constitution was amended in 1877 to provide for biennial sessions, the limitation on the granting of pensions to "one year at a time" was not modified at that time.

IF THE AMENDMENT IS ADOPTED:

The provision prohibiting pensions for more than one year will be removed. The Legislature can then provide for the payment of pensions over the biennium or a longer period, subject to appropriations. This will eliminate a personal budgeting problem for retired public employees.

QUESTION NO. 2

RIGHT TO KNOW

QUESTION:

2. Are you in favor of amending the Constitution to provide that the public's right of access to governmental proceedings and records shall not be unreasonably restricted?

Yes

No

AT THE PRESENT TIME:

The Constitution states that all government power comes from the people of the State, and that therefore governmental officials are accountable to the public.

IF THE AMENDMENT IS ADOPTED:

The accountability of public officials will be assured by adding to the Constitution the express right of citizens to have reasonable access to governmental proceedings and records. This right-to-know amendment strengthens the constitutional guarantee that your government will be not only accountable, but also accessible, open, and responsive.

QUESTION NO. 3

ANNUAL
SESSIONS

QUESTION:

3. Are you in favor of amending the Constitution to provide for annual sessions of the legislature and to allow mileage payments for actual attendance for a maximum of ninety legislative days per biennium?

Yes

No

AT THE PRESENT TIME:

The Constitution requires the Legislature to meet every two years (biennially) for a regular session. Legislators can receive travel mileage payments for up to 90 legislative days during the regular session, but such mileage cannot be paid after July 1st of the first year of the biennium. As a result, the regular session usually ends within the first six months of each two-year period.

However, in addition to the regular session, the Governor, or the Legislature (by two-thirds vote), may call special sessions during which mileage may be paid for up to fifteen days. Since 1969, either the Governor or the Legislature has called a special session in the second year of each biennium, to deal with problems that could not wait for the next regular session of the Legislature, which would not be held until the following year. In fact, since 1965 there has been only one year (1968) without a legislative session.

IF THE AMENDMENT IS ADOPTED:

Legislators would still be elected for a two-year period, as they are now. They would still receive the same mileage payments for up to 90 legislative days in each two-year period. However, the Legislature would be required by the Constitution to meet every year for a regular session; the 90 legislative days for which mileage could be paid would be divided between the two years of the term, depending on the needs of the State.

Although special sessions would still be permitted, the need for them would appear to be reduced, since the legislative business of the State would be handled on an annual basis.

QUESTION NO. 4

JURY
TRIAL

QUESTION:

4. Are you in favor of amending the Constitution to provide that the minimum amount in controversy for the right to jury trial in a civil case be increased from over five hundred dollars to over three thousand dollars?

Yes
 No

AT THE PRESENT TIME:

The New Hampshire Constitution preserves the right to jury trial in civil cases as it existed at the time the Constitution was originally adopted, except in cases where the amount involved is not over \$500 and title to real estate is not involved. The \$500 figure was inserted into the Constitution in 1960, replacing an earlier figure of \$100 which had been inserted in 1877.

IF THE AMENDMENT IS ADOPTED:

The right to jury trial in civil cases will still be preserved, except where the amount involved is not over \$3000 (rather than \$500) and title to real estate is not involved. This will reflect inflation and other changed conditions since 1960. While the guarantee of jury trial will be retained for major cases, the courts will be allowed to handle smaller cases more quickly and at less cost to the public.

QUESTION NO. 5

DIVIDING
TOWNS or WARDS

QUESTION:

5. Are you in favor of amending the Constitution to provide that a town, ward, or unincorporated place may be divided into two or more representative districts if requested by a referendum in such town, ward or place?

Yes

No

AT THE PRESENT TIME:

The Constitution does not permit the dividing of any town or of any ward within a city for the purpose of electing representatives to the Legislature. There are now towns in the state which have as many as eleven representatives elected at large; it is estimated that after the 1980 Federal census, some of the more rapidly growing towns will qualify for as many as 20 representatives to be elected at large. Presently towns are not able to divide into separate voting districts (only cities have that power); nor can cities with very large wards divide those wards for the election of representatives.

IF THE AMENDMENT IS ADOPTED:

The Legislature would be able to pass laws allowing the division of towns and city wards for the purpose of electing representatives to the Legislature. Such towns and wards would then have the option of deciding for themselves through a referendum whether they wish to create smaller voting districts within their established boundaries.

QUESTION NO. 6

SENATORS'
RESIDENCES

QUESTION:

6. Are you in favor of amending the Constitution to provide that should a senator cease to be an inhabitant of the district for which he was chosen, he shall be disqualified to hold such position and a vacancy shall be declared?

Yes

No

AT THE PRESENT TIME:

Members of the Senate who cease to reside in the district from which they were elected may continue to represent their districts. Members of the House of Representatives and Governor's Councillors are required to relinquish their seats under such circumstances, but a Senator may leave the district and still represent its citizens.

IF THE AMENDMENT IS ADOPTED:

Members of the Senate who cease to reside in the district from which they were elected would be required to relinquish office, just as Representatives and Councillors are.

QUESTION NO. 7

OBSOLETE
PHRASES

QUESTION:

7. Are you in favor of amending the Constitution by removing certain obsolete words and phrases as follows: Yes No

- a) Striking out the provisions of Articles 48, 53, 54, and 55 of Part 2 regarding the organization of the state militia and the appointment and removal of its officers which do not conform to actual practice or federal laws governing the National Guard;
- b) Striking out in Article 28 of Part 2 the restriction against voting by paupers and the prohibition against voting by persons excused from paying taxes at their own request to conform to a previous amendment to Article 11 of Part 1 of the constitution; and further amending the constitution by:
- c) Striking out in Article 46 of Part 2 the reference to the appointment of coroners by the governor and council?

AT THE PRESENT TIME:

Some provisions of the Constitution are obsolete:

- a) Articles 48, 53, 54, and 55 of Part 2 do not conform to actual practice or to the Federal laws which govern the National Guard.
- b) Article 28 of Part 2 includes a provision which violates the equal protection clause of the United State Constitution, the right of all citizens to vote regardless of wealth.
- c) Article 46 of Part 2 maintains a cumbersome requirement which is outdated in light of present New Hampshire practice and law.

IF THE AMENDMENT IS ADOPTED:

All these obsolete provisions will be removed from the Constitution which will then more nearly conform to present law and current practice.

QUESTION NO. 8**QUESTION:**

8. Are you in favor of amending the Constitution to make the following changes relating to elections:

- a) to reduce the minimum age of voters to eighteen;
- b) to make domicile rather than being an inhabitant a prerequisite for the voting privilege;
- c) to repeal certain provisions relating to voting in unincorporated places;
- d) to specify that the receipt and counting of ballots and notification of winners in biennial election contests will be handled by the Secretary of State; and
- e) to provide the right to vote by absentee ballot in biennial or state elections, or in the primary elections therefor, or in city elections or town elections by official ballot?

Yes

No

AT THE PRESENT TIME:

Several constitutional provisions governing the right to vote and to hold office are unnecessarily complicated and confusing.

For example, although the voting age is already eighteen and the reference in the Constitution to "inhabitant" is already interpreted to mean a person's "domicile," neither of these facts is clear in the Constitution.

The constitutional provision governing voting in unincorporated

places presently requires inhabitants to pay taxes before they can vote, and contains unnecessary details concerning voting procedures. The Constitution also specifies that the Governor and Council must examine the record of votes cast. Presently, however, that technical job is done by the Secretary of State; the Governor and Council act on his advice.

Finally, although the Legislature has provided by statute for absentee voting, there is no constitutional guarantee of this right.

IF THE AMENDMENT IS ADOPTED:

All of the following changes will occur:

- a) The New Hampshire Constitution will clearly state that eighteen-year-old citizens may vote.
- b) Every eligible New Hampshire citizen may choose one place within the state to exercise the right to vote.
- c) Provisions relating to voting in unincorporated places will be covered in a more appropriate part of the Constitution.
- d) The Secretary of State will be constitutionally required to examine the records of votes cast and to notify winners of elections.
- e) The right of every person entitled to and wishing to vote by absentee ballot in the specified elections will be constitutionally guaranteed.

**YOU MAY TAKE THIS
GUIDE WITH YOU
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This Voters' Guide was prepared and distributed by the Voters' Guide Committee of the 16th Constitutional Convention, and the Office of Legislative Services.

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